

GERALD J. McMAHON
ATTORNEY AT LAW

www.geraldjcmahon.com
gm@geraldjcmahon.com

11 BURNHAM COURT
SCOTCH PLAINS, NJ 07076
(908) 347-4670

375 GREENWICH STREET
NEW YORK, NY 10013
(212) 965-4259

September 16, 2022

By ECF

The Honorable Eric N. Vitaliano
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Carmelo Polito
22 Cr. 356 (ENV)

Dear Judge Vitaliano:

I write on behalf of defendant Carmelo Polito (“defendant” or “Polito”) to seek a modification of his bail conditions to allow him to retain his full-time employment as a cement mason for the Sorbara Construction Corp. (“Sorbara”).

Mr. Polito was arrested at his home in the early morning hours of August 16, 2022 following his indictment for racketeering and related charges centering around several gambling businesses. Defendant was actually at work when the agents arrived at his house but, in response to a telephone call, he returned home to be taken into custody. At his arraignment later that day before Magistrate Judge James R. Cho, Polito was released on a \$1.1 million bond, secured by two financially responsible co-signers (wife and daughter), location monitoring, travel restrictions, a curfew as determined by Pretrial Services (“PTS”), and obligations to have no contact with: 1) co-defendants except in the presence of an attorney; 2) victims, witnesses or organized crime members or associates; and 3) any gambling establishments. (A copy of the relevant portion of the minutes of the bail hearing is appended hereto as Exhibit A). Defendant was released that evening following his arraignment, and has remained fully compliant with all bail conditions to date.

As stated above, Mr. Polito is employed full time as a union cement mason for Sorbara Construction. Basically, defendant works with concrete being poured into rebar. As the Court can imagine, there are strict safety protocols that have to be followed when working at such a job site. Sorbara requires that “Employees must wear a good sturdy work boot, industrial work

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shoes on the job site.” Sorbara Health and Safety Program Manual, March 26, 2021, at 22. Defendant has been unable to wear “industrial work shoes” because of the electronic bracelet attached to his ankle. On September 6, 2022, the Sorbara Construction Concrete Safety Manager sent the following email to defendant’s supervisor:

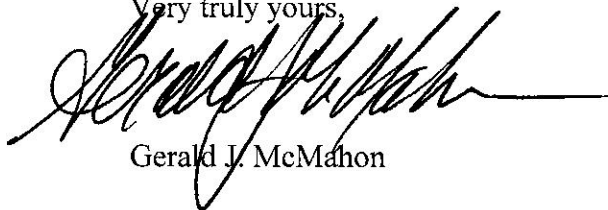
It has been brought to my attention, by the site safety manager. That [sic] Carmelo has been wearing sneakers on site. It is our policy that proper footwear is maintained by all trades. Please see Mr. Polito has acceptable work boot to remain on site.

Email from Robert Miller to Anthony Muzyka, September 6, 2022 (copy appended hereto as Exhibit B).

This job pays Mr. Polito approximately \$2,100 per week and includes full health insurance benefits. Defendant is married and has three children and significant financial obligations. Polito should not lose a very good job because of a bail condition that is not really required in a case that was correctly summarized by Magistrate Judge Cho in one sentence: “It is an illegal gambling case.” Exhibit A, at 47.

Accordingly, the Court should modify defendant’s bail conditions to eliminate the requirement of electronic monitoring/ankle bracelet.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Gerald J. McMahon', with a long horizontal flourish extending to the right.

Gerald J. McMahon

GJM:dlg
Enclosures
cc: All Counsel
(by ECF)

Exhibit A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X **Docket#**
UNITED STATES OF AMERICA, : 22-cr-00356(ENV)-1,2,3,5
:
:
- versus - : U.S. Courthouse
: Brooklyn, New York
JOSEPH MACARIO, ET AL., :
: August 16, 2022
Defendants : 3:35 p.m.
-----X

TRANSCRIPT OF CRIMINAL CAUSE FOR ARRAIGNMENT
BEFORE THE HONORABLE JAMES R. CHO
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

For the Government:

Breon S. Peace, Esq.
United States Attorney

BY: **Drew G. Rolle, Esq.**
Tanya Hajjar, Esq.
Abigail Margulies, Esq.
Anna L. Karamigios, Esq.
Assistant U.S. Attorneys
271 Cadman Plaza East
Brooklyn, New York 11201

For Def. Macario and
Def. Polito:

Gerald J. McMahon, Esq.
375 Greenwich Street
New York, NY 10013

For Def. Rubino:

Walter S. Mack, Esq.
Doar Rieck Kaley & Mack
217 Broadway, Suite 707
New York, NY 10007

For Def. Feuer:

Donald D. DuBoulay, Esq.
305 Broadway, Suite 602
New York, NY 10007

Transcription Service:

Transcriptions Plus II, Inc.
61 Beatrice Avenue
West Islip, New York 11795
RL.Transcriptions2@gmail.com

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1 THE CLERK: This is Criminal Cause for
2 Arraignment on an indictment, *USA v. Joseph Macario,*
3 *Carmelo Polito, Salvatore Rubino, and Mark Feuer.* The
4 case number is 22-cr-356.

5 May I have the parties state their name for the
6 record? Appearing for the government, please?

7 MR. ROLLE: Yes. Good afternoon, your Honor.
8 Drew Rolle, Tanya Hajjar, Abigail Margulies, and Anna
9 Karamigios for the United States.

10 THE CLERK: Thank you.

11 THE COURT: Good afternoon.

12 THE CLERK: Counsel appearing for Joseph
13 Macario?

14 MR. McMAHON: Good afternoon, your Honor.
15 Gerald McMahon for Joseph Macario who's seated to my
16 right.

17 THE CLERK: And Carmelo Polito also?

18 MR. McMAHON: Yes, your Honor. Gerald McMahon
19 also for Mr. Carmelo Polito who's seated to my left.

20 THE COURT: All right. Good afternoon.

21 THE CLERK: Thank you. Counsel for Mr.
22 Salvatore Rubino?

23 MR. MACK: Good afternoon, your Honor. Walter
24 Mack appearing for Mr. Rubino who is sitting to my left.

25 THE CLERK: Thank you. And lastly counsel for

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1 witnesses or intimidate or seek to influence the
2 testimony of any witnesses against you. Do you
3 understand that?

4 DEFENDANT RUBINO: Yes.

5 THE COURT: Okay. So keep your attorney aware
6 of where you can be reached, appear in court as directed,
7 do not commit any crimes while out on bail, and do not
8 seek to influence the testimony of any witnesses against
9 you. Okay? Can you comply with all those terms of your
10 release?

11 DEFENDANT RUBINO: Yes.

12 THE COURT: Okay. All right. I'll approve the
13 bond as discussed. Okay? All right. That's Mr. Rubino.

14 All right. Mr. Rolle, do you want to talk
15 about Mr. Polito?

16 MR. ROLLE: Yes, your Honor. So we didn't get
17 far, if at all, with counsel as to our proposed bond. So
18 your Honor, the government believes that both as to Mr.
19 Polito and Mr. Macario that the bond should be between 2
20 and \$3 million secured by property to be signed by
21 multiple suretors, between three and four suretors. This
22 is commensurate with both their status, their long-
23 standing status in the Genovese crime family. They're
24 similarly situated to Mr. Anthony Pipitone who was a made
25 member of the Bonanno crime family and we had a \$2

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1 million bond secured imposed earlier this afternoon.

2 But as to Mr. Polito, this is crucial because
3 he's basically spent his entire adult life associated
4 with the Genovese crime family through a series of
5 escalating crimes, having been convicted of robbery,
6 convicted of murder in this courthouse which was reversed
7 finding not that he didn't do it but that they couldn't
8 find out why he did it. None of that stopped him as he
9 then continued rising to be an acting captain in the
10 Genovese crime family. It was from that position that he
11 helped oversee and run the long-standing and vast
12 gambling operation and money laundry operation for which
13 he enriched himself, his family and friends, and that's
14 why we're here today. And that's significant conduct,
15 Judge. It shows that this defendant has not turned away
16 from the life that he's chosen to live, that he thinks is
17 important to be that way. These crimes ran for quite
18 some time. Again, I think that's important. Instead of
19 finding a viable job and maintaining it, he instead used
20 his threats of violence to extort victims, he's charged
21 with a violent crime in this case, to make money instead
22 of working to earn an honest living.

23 So there are real concerns about his danger to
24 the community, to his recidivism, and given his age and
25 the penalties he faces, the risk of flight and

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1 nonappearance.

2 So as to Mr. Polito, I think there was a
3 proposal of a personal recognizance bond from counsel.
4 That's totally inadequate. On his criminal history alone
5 and on the charges here and given his position in the
6 Genovese crime family, which as we recounted in our
7 memorandum as to both of these defendants, given their
8 position in the Genovese crime family, what they are
9 capable of doing was acting through others and that
10 presents serious risks on pretrial release. That's not
11 only hypothetical, but it's how they operated in this
12 case. Mr. Macario and Mr. Polito frequent the gambling
13 parlors but they didn't have to go bag up the money every
14 time. They relied on their underlings to do that, to
15 meet them at clandestine meetings to hand it off because
16 they knew they that were under surveillance and they
17 acted accordingly. That's the conduct that's in this
18 case. This is not a guess. And so that's why we need a
19 substantial secured bond to ensure that they comply to
20 ensure the safety of the community and to ensure their
21 continued appearance, Judge.

22 THE COURT: All right. Well let's take them
23 one at a time. So for Mr. Polito, what bond amount are
24 you seeking?

25 MR. ROLLE: We are seeking the same amount as

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1 to each, between 2 and \$3 million. We would like to see
2 more security put in for Mr. Polito. Mr. Macario's can
3 be partially secured. So for Mr. Polito between 2 and \$3
4 million, your Honor.

5 THE COURT: Okay. All right. Mr. McMahon, do
6 you want to be heard? Let's take them one at a time.
7 Regarding Mr. Polito?

8 MR. McMAHON: Yes, Judge. Your Honor, it's
9 quite a description by the prosecutor as to my client's
10 criminal history. Of course it is completely fanciful.
11 My client has one conviction. He's 63 years old. He has
12 one conviction in his entire life and that conviction was
13 in 1995 which by my calculation is decades ago. He was
14 in fact convicted in this courthouse in a murder in aid
15 of racketeering case before Judge Glasser. I know, I
16 tried the case. And it was our defense at the trial that
17 whatever happened, it was not a murder in aid of
18 racketeering. It had nothing to do with the mob. And
19 while we were not able to get the jury to agree to that,
20 the Second Circuit absolutely agreed with that, said it
21 was not a murder in aid of racketeering, and they didn't
22 just vacate the conviction, they gave directions which
23 ended up in the indictment being dismissed.

24 Now the government, unhappy with that result,
25 sent its agents down the street to Brooklyn District

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1 Attorney's Office and had Mr. Polito indicted for murder.
2 Murder not in aid of racketeering, but just murder. And
3 all of the federal agents and informants came and
4 testified at the murder trial down the street. And after
5 hearing them and hearing the shortfalls and inadequacies
6 of their testimony, the jury saw fit to acquit him
7 completely. Walked out the door.

8 So as he sits here today at the age of 63, his
9 entire criminal history is one conviction in 1995. Now
10 they say he's involved in all these gambling operations
11 and everything. There is no shortage of resources in the
12 United States government. There's FBI agents all over
13 the room. There's four AUSAs sitting in the room. If my
14 client, Mr. Polito, has been involved in gambling for 10
15 these many years, why are we here today 20 years after
16 his one and only conviction?

17 So your Honor, talk is cheap. Talk is very
18 cheap. The record is clear, he has one conviction. It's
19 decades old. What the record does show and Pretrial
20 Services does show that he's married. His wife -- he has
21 four children. Excuse me, three children. His wife is
22 in court, his daughter is in court. Mr. Polito has
23 worked gainfully employed for decades. His wife owned a
24 restaurant in Long Island City, Bella Via. Very
25 successful restaurant. She owned it for many years. Mr.

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1 Polito worked there with his wife for many years. Mr.
2 Polito is now working as a cement mason. For a guy who
3 apparently doesn't do anything but sit in gambling dens,
4 when the FBI came to arrest him at 6 o'clock this morning
5 at his house in Whitestone, Queens, do you know where he
6 was? He was at work as a mason. So what did they do?
7 They had the wife call him. Carmine, there are agents
8 here. And he came home to be arrested. So in terms of
9 their story that they've just given you, it's just
10 complete hogwash. He was at work and came home and here
11 we are sitting here today.

12 So your Honor, the house that they live in is
13 owned wholly by his wife and its value is approximately
14 \$850,000. I think the Zillow number was 800 and some
15 change. But it's between 800 and \$900,000. There's no
16 mortgage on the house. There's a line of credit of
17 \$72,000. And as I say, it's solely owned by his wife
18 who's present in Court.

19 So it seems to me that given the lack of a
20 conviction except since 1995 and the fact that this case
21 is basically a gambling case, we are suggesting to your
22 Honor that the appropriate bond would be a bond not in
23 the amount of 2 million or \$3 million, but most a \$1
24 million bond. And if it were cosigned by his wife, who
25 as I say is the owner of a house that's 800 or \$900,000

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1 worth -- and as I say, his daughter, who is a nurse
2 practitioner, she is present in court. She's of course
3 willing to sign a bond on his behalf. But Pretrial
4 Services said there's no risk of flight.

5 Oh by the way, there was an issue about his
6 passport and we have in court his un-expired passport,
7 his current passport. So we're prepared to surrender
8 that to Pretrial Services so there won't be any issue
9 about travel or stuff like that.

10 So I think, your Honor, the employment history
11 that he has, the fact that he came home to be taken into
12 custody this morning by the FBI agents, the fact that a
13 very large amount of money would be securing the
14 property, would be securing the bond, the fact that there
15 is no criminal conviction since 1995, and the fact that
16 this is basically a gambling case -- I know they talk
17 about the Genovese family and we got John Gotti here, we
18 got everybody here, the case is a gambling case. A
19 gambling case. Okay. So the appropriate bond for a
20 gambling case for a guy who has one conviction that's
21 like 30 years old max \$1 million PRB secured by property
22 owned by his wife which has an equity of about \$850,000,
23 and all of the other conditions, travel restricted to New
24 York City and Long Island, and strict Pretrial
25 supervision, no association with La Cosa Nostra, no

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1 association with co-defendants except in the presence of
2 attorneys. I believe, Judge, that those -- even Pretrial
3 recognizes that he's not a risk of flight and I think
4 that his track record indicates that he will be fully
5 compliant with all the bail conditions.

6 And the most telling thing is that, and I keep
7 mentioning it because it's not every day that they come
8 and get your guy at 6 o'clock in the morning, he's not
9 there, he's at work. It's not that he's at the track or
10 something. But the fact that he came home, put the cuffs
11 on, and here we are. I think all of that suggests, your
12 Honor, that a \$1 million PRB secured by a home owned by
13 his wife and can be cosigned by his wife and cosigned by
14 his daughter who's also present in court at the present
15 time. And I think that should be sufficient, Judge.

16 THE COURT: All right. And I can ask for
17 myself but do you know approximately how much the
18 daughter earns per year?

19 MS. POLITO: 115,000.

20 THE COURT: Okay.

21 MR. McMAHON: She's a nurse practitioner, your
22 Honor.

23 MR. ROLLE: Judge, may I be heard?

24 THE COURT: Go ahead.

25 MR. ROLLE: Your Honor, I'd like to respond.

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1 Counsel puts a lot of emphasis on Mr. Polito's work
2 experience and counted where he's worked and also that he
3 has one conviction. I think the tack here is to decide
4 if a man who has spent his life in the Genovese crime
5 family can be trusted to comply with his conditions. And
6 one would think having been convicted, reversed, and
7 acquitted, one would turn from the life 20 years ago.
8 But we're here today because he made a knowing decision
9 not to as outlined in the indictment in our detention
10 memo.

11 But as to his employment history, I think it's
12 notable that part of this case and part of the
13 substantial hours of recordings and video that will be
14 produced in discovery is that this defendant used his
15 employment to further the enterprise. He spent much of
16 his time at the Bella Via meeting with the captains, the
17 senior leadership of not only the Genovese crime family,
18 the Gambino crime family, the Bonanno crime family. And
19 you'll hear this on tape. So while working he never
20 stopped working for the family and that's the core issue
21 because when he goes and does something that might seem
22 to his family to be working legitimately at the Bella
23 Via, what's happening out of sight among the people he
24 trusts, that he's talking about organized crime and
25 furthering these racketeering activities. So that's the

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1 central concern. And he chose to do that notwithstanding
2 the fact that he had been acquitted in state court of
3 murder after being convicted of murder in federal Court
4 which is a telling decision making approach for this
5 defendant. I think that's very important in what
6 supports a significant bond here.

7 THE COURT: Okay.

8 MR. McMAHON: Just briefly one thing, your
9 Honor.

10 THE COURT: Go ahead, Mr. McMahon.

11 MR. McMAHON: The reversal and the acquittal in
12 state court was in 2005. If he's been committing crimes
13 from 2005 every day to today, where have they been for 20
14 years? That's all.

15 THE COURT: Understood. I'd be more inclined
16 to agree with the government if there was some sort of
17 murder charge in this case, but there is not. It is an
18 illegal gambling case. So I'm prepared to approve a --

19 MR. ROLLE: Judge, I'm sorry, just for clarity
20 of the record, this defendant is charged in fact with
21 attempted extortion where he threatened to put a man
22 under the bridge and burn his face.

23 THE COURT: Understood.

24 MR. ROLLE: So I think that that piece is
25 important and differentiates him certainly from the other

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1 defendants charged in the racketeering count.

2 THE COURT: I understand. All right. Well I'm
3 going to set the bond amount at 1.1 million. Okay? It's
4 higher than the proposed 1 million. I understand we have
5 two suretors here. So I'm proposing a \$1.1 million bond
6 subject to me finding that these suretors are appropriate
7 and they're going to post a property as well. Okay?

8 MR. ROLLE: Mm hm.

9 THE COURT: So why don't I hear from the
10 suretors now? So --

11 THE CLERK: You want them up here now, Judge?

12 THE COURT: Yes, why don't they come up?

13 THE CLERK: Victoria Polito and Jacqueline
14 Polito, up here, please. And the property at 150-49.
15 Okay. Up here, please. Thank you. Okay, I'm just going
16 to swear you both. Please raise your right hand.

17 V I C T O R I A P O L I T O,

18 J A C Q U E L I N E P O L I T O,

19 called as witnesses, having been first duly sworn,
20 were examined and testified as follows:

21 THE CLERK: Can you state your name for the
22 record?

23 MRS. POLITO: Victoria Polito.

24 THE CLERK: Thank you, Victoria.

25 MS. POLITO: Jacqueline Polito.

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1 THE CLERK: Thank you. Okay, Judge.

2 THE COURT: All right. Good afternoon. I'm
3 sure neither one of you wants to be here today, but let
4 me explain to you what's going on. Okay? So there's
5 been some discussion about the proposed bail package by
6 Mr. Polito. Okay? I'm prepared to approve a bail
7 package that provides for a \$1.1 million bond. Under our
8 system though, no one has to put up any money at all
9 today. Okay? It's only in the event that Mr. Polito,
10 your husband, your father, violates any terms of his
11 release that the government may come after you to recover
12 the full \$1.1 million bond. Okay?

13 So what I need to do is ask you some questions
14 to assure myself that you're appropriate suretors. Okay?
15 So why don't I start with you first, Victoria Polito.
16 You are Mr. Polito's wife. Is that correct?

17 MRS. POLITO: (No audible response).

18 THE COURT: Okay. Where do you live?

19 MRS. POLITO: 150-49 9th Avenue, Whitestone.

20 THE COURT: Okay. And who else lives there
21 with you?

22 MRS. POLITO: My husband and I.

23 THE COURT: All right. And how long have you
24 lived there?

25 MRS. POLITO: Lived there for 35 years.

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1 THE COURT: Okay. Now is it true that there's
2 no mortgage on that property?

3 MRS. POLITO: No mortgage on it. Just I have a
4 line of credit on the home for \$72,000.

5 THE COURT: Okay. And how much would you value
6 the property today approximately?

7 MRS. POLITO: Depends who wants it. I mean I
8 would say the normal range would probably be about
9 900,000 but considering where I live, the houses are
10 going for a lot more than that.

11 THE COURT: Understood. All right. Are you
12 currently working?

13 MRS. POLITO: No, I'm not.

14 THE COURT: Okay. Do you have any income
15 coming in at this point in time?

16 MRS. POLITO: I have my husband works and I
17 have -- I just filed for social security.

18 THE COURT: Okay. And how much --

19 MRS. POLITO: Because of the pandemic,
20 everything just got --

21 THE COURT: Understood. And how much do you
22 receive in social security approximately?

23 MRS. POLITO: Approximately 1,300 a month.

24 THE COURT: Okay. Now knowing all of the
25 conditions of his release as we've discussed here in

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1 court and the posting of your property, do you still want
2 to sign this bond?

3 MRS. POLITO: Yes, I do.

4 THE COURT: Okay. All right. I'll find you to
5 be an appropriate suretor. Okay? All right. Jacqueline
6 Polito?

7 MS. POLITO: Yes.

8 THE COURT: Okay. What year were you born?

9 MS. POLITO: 1989.

10 THE COURT: Okay. Approximately how old are
11 you?

12 MS. POLITO: 33.

13 THE COURT: All right. And I assume you work
14 as a nurse practitioner, is that right?

15 MS. POLITO: Correct.

16 THE COURT: Where do you work?

17 MS. POLITO: I work with Advantage Care
18 Physicians, full-time employee for four years now.

19 THE COURT: Okay. And approximately how much
20 do you earn per year?

21 MS. POLITO: Approximately 115,000 a year.

22 THE COURT: Okay. All right. As I indicated
23 to your mom as well, you don't have to put up any money
24 today. Okay? It's only in the event your father
25 violates any terms of his release the government may come

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1 after you to recover this bond. Okay? Which is \$1.1
2 million. Do you understand that?

3 MS. POLITO: Yes, your Honor.

4 THE COURT: All right. Now knowing all that,
5 do you still want to sign this bond?

6 MS. POLITO: Yes, your Honor.

7 THE COURT: Okay. All right. I will find you
8 to be an appropriate suretor as well. Both of you can
9 sit down.

10 MRS. POLITO: Thank you, your Honor.

11 THE COURT: Thank you. All right. Turning
12 back to you, Mr. Polito, your family is willing to post
13 the bond for you, all right, and they're posting their
14 property as well to secure your release. All right? So
15 it tells you a lot about your wife and your daughter.
16 Okay? This is a significant bond amount, right? It's
17 more than your attorney had asked for but a lot less than
18 the government had asked for. Do you understand?

19 DEFENDANT POLITO: Mm hm.

20 THE COURT: All right. But I'm prepared to
21 approve this bond as proposed. Okay? There are a number
22 of restrictions and let me remind you what those are.
23 You're not to have any contact with co-defendants in this
24 case without the presence of your counsel present.. Not
25 to have any contact with victims, witnesses, or members

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1 and associates of La Cosa Nostra. Do you understand
2 that? Yes?

3 DEFENDANT POLITO: Yes.

4 THE COURT: Okay. You are to avoid all
5 gambling establishments. You must report to Pretrial
6 Services as directed. You'll be subjected to a curfew.
7 Okay? And your travel is restricted to New York City and
8 Long Island. Okay?

9 Knowing all those conditions, can you agree to
10 comply with the terms of your release?

11 DEFENDANT POLITO: Yes, I can.

12 THE COURT: Okay. All right. And the same
13 warnings for you as well. If you fail to come to court
14 as directed, a warrant will be issued for your arrest and
15 you'd be held without bail until your trial. Do you
16 understand?

17 DEFENDANT POLITO: Yes, I do.

18 THE COURT: Okay. If you fail to appear, you
19 may be brought up on charges of bail jumping. Do you
20 understand?

21 DEFENDANT POLITO: I do.

22 THE COURT: Which is a separate felony offense.
23 All right? Even if you're not convicted of the
24 underlying charge and you get convicted of bail jumping,
25 you could go to jail for that. You understand?

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1 DEFENDANT POLITO: Yes, sir.

2 THE COURT: Okay. Now if you're convicted of
3 both the underlying charge and of bail jumping, you could
4 receive consecutive jail terms. Do you understand?

5 DEFENDANT POLITO: Yes.

6 THE COURT: Okay. Now if you commit any crimes
7 while out on bail, you'd be subjected to increased
8 punishment. Do you understand?

9 DEFENDANT POLITO: Yes, I do.

10 THE COURT: All right. You are not to threaten
11 or influence the testimony of any witnesses against you
12 and you could be punished for that too. Okay?

13 DEFENDANT POLITO: Yeah.

14 THE COURT: All right. So keep your attorney
15 aware of where you can be reached. Do not commit any
16 crimes while out on bail. Appear in court as directed.
17 And do not seek to influence the testimony of any
18 witnesses. Okay? Can you comply with all those terms of
19 your release?

20 DEFENDANT POLITO: Yes, I can.

21 THE COURT: Yes. Okay. I'll go ahead and
22 approve your bond. Okay?

23 MR. ROLLE: Your Honor, I wanted to confirm
24 that location monitoring was part of the conditions
25 imposed by your Honor.

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1 THE COURT: Yes. I think that's understood but
2 if not, yes, you'll be subjected to location monitoring.
3 Okay?

4 MR. ROLLE: Thank you, your Honor.

5 THE COURT: All right. Finally, Mr. Macario.
6 Go ahead, Mr. Rolle.

7 MR. ROLLE: Thank you, your Honor. I think
8 many of the same points I made as to Mr. Polito apply to
9 Mr. Macario. While he has no criminal history as we note
10 in our submission and in the Pretrial report, his status
11 in the family was significant and he was one of the main
12 operators of this conspiracy alongside Mr. Polito.

13 And with it all the concerns I outlined as to
14 Mr. Polito remain here. The fact that he has access to
15 others, can influence others and act through others even
16 while on release which all of which have been recognized
17 in the circuit as increasing the risk in cases like this
18 on release.

19 I think one thing that stood out in the
20 Pretrial memo was somewhat of a discrepancy as to what
21 the defendant, Mr. Macario, had described he's been doing
22 since 2012 which was that he owns JTM Ocean Corporation
23 to install cabinets and earns 700 a week. Says he works
24 part time and is in the process of retiring. Yet his
25 wife and son believe he's fully retired. Whether that's

C E R T I F I C A T E

I, MARY GRECO, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 11th day of September, 2022.



Transcriptions Plus II, Inc.

Exhibit B

Sent from my iPhone

Begin forwarded message:

From: Anthony Muzyka <Amuzyka@sorbaraconstruction.com>
Date: September 6, 2022 at 9:11:22 AM EDT
To: CARMINE <carmelopolito59@gmail.com>
Subject: Fwd: Carmelo Polito

Sent from my iPhone

Begin forwarded message:

From: Robert Miller <rmiller@sorbaraconstruction.com>
Date: September 6, 2022 at 7:48:35 AM EDT
To: Anthony Muzyka <Amuzyka@sorbaraconstruction.com>
Subject: Carmelo Polito

Good morning Anthony,

It has been brought to my attention, by the site safety manager. That Carmelo has been wearing sneakers on site. It is our policy that proper footwear is maintained by all trades. Please see Mr. Polito has acceptable work boot to remain on site.

Thank you,
Sorbara Construction Concrete Safety Manager
~Rob Miller
Sent from Mail for Windows